IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Patent Application of	Confirmation No.: 9543
FARR et al.	Atty. Ref.: 36-2005
Serial No. 10/591,349	TC/A.U.: 2166
Filed: August 31, 2006	Examiner: B. Witzenburg
For: CONTENT PROVISIONING METHOD AND SYSTEM	

* *

April 3, 2009

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellant hereby appeals to the Board of Patent Appeals and Interferences from

the last decision of the Examiner.

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(I)   <u>REAL PARTY IN INTEREST</u>

The real party in interest is British Telecommunications public limited company, a corporation of the country of the United Kingdom.

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(II)   <u>RELATED APPEALS AND INTERFERENCES</u>

The appellant, the undersigned, and the assignee are not aware of any related appeals, interferences, or judicial proceedings (past or present), which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

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(III)   <u>STATUS OF CLAIMS</u>

Claims 1-16 and 18-34 are pending and have been rejected. No claims have

been substantively allowed. All of rejected claims 1-16 and 18-34 are being appealed.

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(IV)   <u>STATUS OF AMENDMENTS</u>

A Response requesting reconsideration of the Final Rejection was filed on

December 3, 2008. An Advisory Action was issued on January 29, 2009 continuing to

reject all claims.

(V)   SUMMARY OF CLAIMED SUBJECT MATTER

Each independent claim, each dependent claim argued separately, and each claim having means plus function language is summarized below including exemplary reference(s) to page and line number(s) of the specification.

1.   A content item provisioning method, comprising the steps:

storing content items for provision to users [Fig. 3, 308; p. 13, lns. 1-10];

maintaining, for at least one user, respective content access data usable to determine which stored content items may be provided to the users [Fig. 3, 310; p. 13, lns. 11-15];

receiving content items from a particular user for provision to the users [Fig. 4, 4.2; p. 15, lns. 17-27];

changing the respective content access data for said particular user from which content items are received [p. 14, lns. 30-33; p. 15, l. 28 to p. 16, l. 3]; and

providing a sub-set of the stored content items to said particular user, members of the sub-set being determined in dependence on the respective content access data of said particular user [p. 16, l. 29 to p.17, l. 19],

wherein each stored content item has a property value, and the content access data comprises a content access value relating to the property value [p. 13, lns. 19-23], wherein the sub-set of the content items is determined in dependence on the respective property values [p. 13, lns. 19-23].

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2.   The method according to claim 1, wherein the property values and content access values are times and/or dates [p. 13, lns. 23-29].

3.   The method according to claim 1, wherein the property values and content access values are geographical positions [p. 13, lns. 30-31].

18.   A content item provisioning system, comprising:

content storage arranged in use to store content items for provision to users [Fig. 3, 308; p. 13, lns. 1-10];

data storage arranged in use to store, for at least one user, respective content access data usable to determine which stored content items may be provided to the users [Fig. 3, 310; p. 13, lns. 11-15];

first receiving means for receiving content items from a particular user for provision to the users [Fig. 3, 30; Fig. 4, 4.2; p. 15, lns. 17-27];

a data processor arranged in use:

i) to change the respective content access data for said particular user from which content items are received [Fig. 3, 306; p. 14, lns. 30-33; p. 15, l. 28 to p. 16, l. 3]; and

ii) determine a sub-set of the content items in dependence on the content access data of said particular user [p. 16, l. 29 to p.17, l. 19]; and

means for providing the determined sub-set to said particular user [p. 16, l. 29 to p.17, l. 19],

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wherein each stored content item has a property value, and the content access

data comprises a content access value relating to the property value [p. 13, lns. 19-23],

wherein the sub-set of the content items is determined in dependence on the respective

property values [p. 13, lns. 19-23].

19.   The system according to claim 18, wherein the property values and

content access values are times and/or dates [p. 13, lns. 23-29].

20.   The system according to claim 18, wherein the property values and

content access values are geographical positions [p. 13, lns. 30-31].

33.   A content item provisioning method, comprising the steps:

storing data defining access to content items for provision to users [Fig. 3, 308; p.

13, lns. 1-10];

maintaining, for at least one user, respective content access data usable to

determine which stored data defining access to content items may be provided to the

users [Fig. 3, 310; p. 13, lns. 11-15];

receiving data defining access to content items from a particular user for

provision to the users [Fig. 4, 4.2; p. 15, lns. 17-27];

changing the respective content access data for said particular user from which

data defining access to content items are received [p. 14, lns. 30-33; p. 15, l. 28 to p.

16, l. 3]; and

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providing a sub-set of the stored data defining access to content items to said

particular user, members of the sub-set being determined in dependence on the

respective content access data of said particular user [p. 16, l. 29 to p.17, l. 19],

wherein each stored data defining access to a content item has a property value,

and the content access data comprises a content access value relating to the property

value [p. 13, lns. 19-23], wherein the sub-set of the data defining access to content

items is determined in dependence on the respective property values [p. 13, lns. 19-23].

34.   A content item provisioning system, comprising:

content storage arranged in use to store data defining access to content items for

provision to users [Fig. 3, 308; p. 13, lns. 1-10];

data storage arranged in use to store, for at least one user, respective content

access data usable to determine which stored data defining access to content items

may be provided to the users [Fig. 3, 310; p. 13, lns. 11-15];

first receiving means for receiving data defining access to content items from a

particular user for provision to the users [Fig. 3, 30; Fig. 4, 4.2; p. 15, lns. 17-27];

a data processor arranged in use:

i) to change the respective content access data for said particular user from

which data defining access to content items are received [Fig. 3, 306; p. 14, lns. 30-33;

p. 15, l. 28 to p. 16, l. 3]; and

ii) determine a sub-set of the data defining access to content items in

dependence on the content access data of said particular user [p. 16, l. 29 to p.17, l.

19]; and

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means for providing the determined sub-set to said particular user [p. 16, l. 29 to p.17, l. 19],

wherein each stored data defining access to content items has a property value, and the content access data comprises a content access value relating to the property value [p. 13, lns. 19-23], wherein the sub-set of the data defining access to content items is determined in dependence on the respective property values [p. 13, lns. 19-23].

(VI)   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A.   Claims 1, 2, 4-16, 18, 19, and 21-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over "A Reputation System for Peer-to-Peer Networks" by Gupta et al. ("Gupta A") in view of "A Frequent-Sharer Program for Peer-to-Peer Systems" by Gupta et al. ("Gupta B") and further in view of Daly et al. ("Daly").

B.   Claims 3 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta A in view of Gupta B in further view of Daly and in further view of Nye et al. ("Nye").

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(VII) **ARGUMENT**

A.   <u>Claims 1, 2, 4-16, 18, 19, and 21-34 are rejected under 35 U.S.C. 103(a)</u> <u>as being unpatentable over "A Reputation System for Peer-to-Peer Networks" by Gupta</u> <u>et al. ("Gupta A") in view of "A Frequent-Sharer Program for Peer-to-Peer Systems" by</u> <u>Gupta et al. ("Gupta B") and further in view of Daly et al. ("Daly").</u>

Appellant's invention is directed to a method and system for providing content items to users and which has the following features: (1) restricting access to any particular data item so as to be available only to more-favored users; and (2) using "content access data" to mediate the interactions between the central processor and the individual user with whom the content access data is associated to vary the availability of data to be provided to that user. As will be explained below, none of the cited references teach or suggest these features of Appellant's invention which are required by the present claims.

In the advisory action dated January 29, 2009, the Examiner asserts that "[r]estricting accessibility of any particular content item that a search may identify does not exist in the claim language." *See,* Advisory Action at page 2. To the contrary, the last two integers of independent claims 1, 18, 33 and 34 clearly have this effect in that they determine whether a given stored item (data in claims 33 and 34) is to form part of the subset of items made available to a given user, according to the property value associated with the data item and the content access value associated with the user. *See,* independent claims 1, 18, 33, and 34. This necessarily requires that certain content items (data) have their accessibility restricted to certain users.

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In the Advisory Action, the Examiner also asserts that the "claim language does not require that 'content access' be used specifically to 'mediate the interactions between the central processor and the individual user.'" To the contrary, independent claims 18 and 34 require that the data processor uses the content access data to determine the subset of data which it is to return to the user – in other words the content access data mediates this function. *See,* independent claims 18 and 34 at limitation (ii). The final two integers of independent claims 1 and 33 require a similar mediation to be performed in the interactions between the user and the accession process (although there is no specific mention of what structure performs the mediation in these method claims).

That the cited references do not teach or suggest the above described features of Appellant's invention will now be described in more detail. Gupta B, refers to sender peers earning "reputation scores" that allow requester peers to assess the likely utility of the data provided by each sender peer. This is merely a way for requester peers to assess the quality of the data available to them – there is no suggestion in Gupta A that sender peers gain any advantage from their reputation score.

Only Gupta B describes rewarding contributors. More particularly a system is described in which peers who contribute more, or more useful, data are offered a higher level of service (LoS) – measured as the depth (number of hops) to which a search may

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be made, or priority in speed of delivery (scheduling type, or rate). *See,* Gupta B at the paragraph bridging pages 2-3. There is, however, no indication that access to any particular data item is restricted so as to be available only to more-favored users, as required by the present claims. *See,* the last two integers of independent claims 1, 18, 33, and 34. Certainly, none of the passages cited by the Examiner on page 3 of the Final Office Action suggest this. In particular, the Examiner alleges that both Gupta references describe the permitted breadth of search being related to the requester's reputation – but there is no such mention in either reference, other than the limitation to the number of search hops in Gupta B (page 4, line 2) which is <u>not</u> the same as restricting the accessibility of any particular content item that such a search might identify, as required by the present claims. Thus, neither Gupta B nor Gupta A teach or suggest this first feature of Appellant's invention which is required by the present claims.

In the middle of page 3 of the Final Office Action, the Examiner appears to equate Gupta B's "reputation score" with the "content access data" of Appellant's claimed invention. However, Appellant's "content access data" serves a very different purpose from Gupta B's "reputation score" and, therefore, are not the same. Gupta B's "reputation score" is a value flagged up to the other users to indicate the reliability or usefulness of data from that user while, as noted above, Appellant's "content access data" is used to mediate the interactions between the central processor and the individual user with whom the content access data is associated in order to vary the availability of data to be provided to that user. Thus, neither Gupta B nor Gupta A teach or suggest this second feature of Appellant's invention which is required by the present claims.

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No individual user is given any information about any other user's "content access data," and the content access data affects no-one's searches except the user with whom the value is associated. The passage quoted on page 147 (Section 3.2.1) of Gupta A describes the requester specifying (under "other info") the popularity of the files he wants returned – i.e., does he want only the most popular file, or the five most popular, or the fifty . . . This is a value associated with the file (and its provider), and acts as a limitation of the request. Appellant's required content access data is associated with the requester, not the supplier, of data.

It is the combination of the "property value" that Appellant's invention applies to each data item (e.g., its date of publication) and the "content access data" applied to each user (e.g., the threshold date), which affects the search results. Although Appellant's invention does not restrict the property value to being generated in the same way as Gupta A's reputation value, it is used in a somewhat similar way in that it determines which items are delivered to the requesting user. However, unlike Gupta A, the decision as to whether to deliver is not at the choice of the requester but is automatic, in consequence of the requester's own content access data value.

The Examiner also alleges that Gupta B implies that "the members of the (selected) subset of the content items are determined in dependence on the respective content access data of said particular user." *See,* Final Office Action at page 3. In fact, there is nothing in Gupta B to suggest that the results of a request depend on the users' allotted LoS – only that the search parameters (number of hops, speed of delivery) may differ from one user to another (scheduling and rate). But if they can make the same request, each of Gupta B's users would (eventually) get the same results. The user

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may choose to limit the search to more popular files, as described on page 147 of Gupta A, but that is a very different proposition from making certain files not available to certain users, as required by the present claims.

The different Gupta references describe a level of service indicator linked to a requesting user, and an indicator of item value (namely the reputation of the provider of that item). However, there is nothing in ether Gupta reference to suggest using a requester's "level of service" indicator such as discussed in Gupta B, to determine whether a given data item should be delivered to that user by reference to the items' value, such as Gupta A's "reputation value." A user's reputation value only affects whether the content he himself supplies is likely to be delivered to other users – not whether other users' content is to be delivered to him. Indeed, although there is some material common to the two Gupta papers, neither the level of service feature nor the reputation value form part of that common material.

The Examiner's reference to file-access privileges being well known in the art, and the citation to Daly does not solve the deficiencies noted above with respect to the Gupta references. Again, neither Gupta reference discloses that the "reputation" of the requesting peer affects whether any particular content is to be delivered to him. Accordingly, the present claims patentably define over the cited art taken singly or in combination.

Dependent claims 2 and 19 apply threshold times and/or dates to the information made available to the user, so that the most recent data is only made available to users with the highest level of access. The Examiner cites Gupta A at page 146, lines 42-46 for disclosing this further limitation. See, Final Office Action at pages 4 and 10.

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However, the cited portion of Gupta A merely suggests to "time-stamp the reputation scores for expiration" to "prevent peers from once gaining a good reputation score and then never contributing to the system." This has nothing to do with the claim requirement that the time and/or date, property values and content access values, restrict access to any particular data item so as to be available only to more-favored users, as required by these claims. Accordingly, claims 2 and 19 patentably define over the cited art taken singly or in combination for this additional reason.

B. Claims 3 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta A in view of Gupta B in further view of Daly and in further view of Nye et al. ("Nye").

Claims 3 and 20 further require that the property values and content access values are geographic positions. The Examiner cites Nye for allegedly disclosing this further limitation. See, Final Office Action at pages 15-16. However, Nye has nothing to do with the claim requirement that the geographic, property values and content access values, restrict access to any particular data item so as to be available only to more-favored users, as required by these claims. Indeed, the Examiner admits to citing Nye because it discloses providing "fresher indexing data" which increases efficiency. Id. Whether or not Nye combined with the Gupta references and Daly provides increased efficiency is besides the point – the combination clearly would not have taught or suggested these further claim limitations. Accordingly, claims 3 and 20 patentably define over the cited art taken singly or in combination for this additional reason.
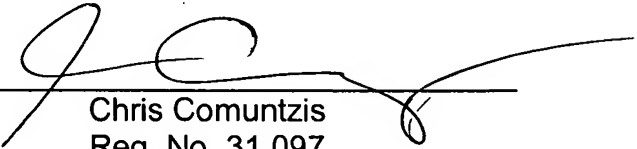
CONCLUSION

In conclusion it is believed that the application is in clear condition for allowance; therefore, early reversal of the Final Rejection and passage of the subject application to issue are earnestly solicited.

Respectfully submitted,

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(VIII) CLAIMS APPENDIX

1.   A content item provisioning method, comprising the steps:

storing content items for provision to users;

maintaining, for at least one user, respective content access data usable to determine which stored content items may be provided to the users;

receiving content items from a particular user for provision to the users;

changing the respective content access data for said particular user from which content items are received; and

providing a sub-set of the stored content items to said particular user, members of the sub-set being determined in dependence on the respective content access data of said particular user,

wherein each stored content item has a property value, and the content access data comprises a content access value relating to the property value, wherein the sub-set of the content items is determined in dependence on the respective property values.

2.   The method according to claim 1, wherein the property values and content access values are times and/or dates.

3.   The method according to claim 1, wherein the property values and content access values are geographical positions.

4.   The method according to claim 1, wherein multiple sets of content items are stored, and respective content access data is maintained for one or more of the sets of content items .

5.   The method according to claim 4, wherein content access data for one set is changed in dependence on receipt from users of content items for that set.

6.   The method according to claim 4, wherein content access data for one set is changed in dependence on receipt from users of content items for another set or sets.

7.   The method according to claim 1, wherein the content access values are changed so as to increase the content items provided in the sub-set.

8.   The method according to claim 1, wherein the content access values are changed to give a fixed change in the content items with which the users are provided in the sub-set.

9.   The method according to claim 1, and further comprising the step of receiving rating data specifying a rating given to a content item by a user, wherein the changing step comprises changing the content access value for the user from which the content item which was rated was received in dependence on the received rating data.

10.   The method according to claim 9, wherein the rating is weighted according to the content access value of the rating user.

11.   The method according to claim 1, wherein the changing step further comprises receiving requests for specific content items from the users, and changing the content access value for the user from which the requested content item was received.

12.   The method according to claim 1, wherein the changing step further comprises monitoring time or date at which a first content item is received in relation to the time or date a second content item is received, and changing the content access value of the user from which the first content item was received in dependence on a difference between the times and/or dates.

13.   The method according to claim 1, wherein the changing step further comprises monitoring the time since the receipt of a content item and changing the content access value of the user from which the content item was received in dependence on the monitored time.

14.   The method according to claim 1, and further comprising the step of permitting a user to perform manipulations of the stored content items in dependence on the user's content access value.

15.   The method according to claim 1, collectively performed by at least a subset of peers within a peer to peer network.

16.   A computer program or suite of computer programs stored on a computer module storage medium and arranged such that when executed by a computer system or a plurality of computer systems it/they cause the computer system or systems to perform the method of claim 1.

Claim 17 (Canceled)

18.   A content item provisioning system, comprising:

content storage arranged in use to store content items for provision to users;

data storage arranged in use to store, for at least one user, respective content access data usable to determine which stored content items may be provided to the users;

first receiving means for receiving content items from a particular user for provision to the users;

a data processor arranged in use:

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i) to change the respective content access data for said particular user from which content items are received; and

ii) determine a sub-set of the content items in dependence on the content access data of said particular user; and

means for providing the determined sub-set to said particular user,

wherein each stored content item has a property value, and the content access data comprises a content access value relating to the property value, wherein the sub-set of the content items is determined in dependence on the respective property values.

19.   The system according to claim 18, wherein the property values and content access values are times and/or dates.

20.   The system according to claim 18, wherein the property values and content access values are geographical positions.

21.   The system according to claim 18, wherein multiple sets of content items are stored in the content storage, and respective content access data is stored in the data storage for each set of content items.

22.   The system according to claim 21, wherein content access data for one set is changed in dependence on receipt from users of content items for that set.

23. The system according to claim 21, wherein content access data for one set is changed in dependence on receipt from users of content items for another set or sets.

24. The system according to claim 18, wherein the content access values are changed so as to increase the content items provided in the sub-set.

25. The system according to claim 18, wherein the content access values are changed to give a fixed change in the content items with which the users are provided in the sub-set.

26. The system according to claim 18, and further comprising means for receiving rating data specifying a rating given to a content item by a user from one or more users, wherein the data processor is further arranged to change the content access value for the user from which the content item which was rated was received in dependence on the received rating data.

27. The system according to claim 26, wherein the rating is weighted according to the content access value of the rating user.

28. The system according to claim 18, further comprising means for receiving requests for specific content items from the users, and the data processor is further

arranged to change the content access value for the user from which the requested

content item was received.

29.   The system according to claim 18, further comprising a monitor to monitor

time or date at which a first content item is received in relation to the time or date a

second content item is received, wherein the data processor is further arranged to

change the content access value of the user from which the first content item was

received in dependence on a difference between the times and/or dates.

30.   The system according to claim 18, further comprising a monitor to monitor

the time elapsed since the receipt of a content item , the data processor being further

arranged to change the content access value of the user from which the content item

was received in dependence on the monitored time.

31.   The system according to claim 18, and further comprising content item

manipulation means arranged in use to permit a user to perform manipulations of the

stored content items in dependence on the user's content access value.

32.   The system according to claim 18, collectively embodied by at least a sub-

set of peers within a peer to peer network.

33.   A content item provisioning method, comprising the steps:

storing data defining access to content items for provision to users;

maintaining, for at least one user, respective content access data usable to

determine which stored data defining access to content items may be provided to the

users;

receiving data defining access to content items from a particular user for

provision to the users;

changing the respective content access data for said particular user from which

data defining access to content items are received; and

providing a sub-set of the stored data defining access to content items to said

particular user, members of the sub-set being determined in dependence on the

respective content access data of said particular user,

wherein each stored data defining access to a content item has a property value,

and the content access data comprises a content access value relating to the property

value, wherein the sub-set of the data defining access to content items is determined in

dependence on the respective property values.

34.   A content item provisioning system, comprising:

content storage arranged in use to store data defining access to content items for

provision to users;

data storage arranged in use to store, for at least one user, respective content

access data usable to determine which stored data defining access to content items

may be provided to the users;

first receiving means for receiving data defining access to content items from a particular user for provision to the users;

a data processor arranged in use:

i) to change the respective content access data for said particular user from which data defining access to content items are received; and

ii) determine a sub-set of the data defining access to content items in dependence on the content access data of said particular user; and

means for providing the determined sub-set to said particular user,

wherein each stored data defining access to content items has a property value, and the content access data comprises a content access value relating to the property value, wherein the sub-set of the data defining access to content items is determined in dependence on the respective property values.

(IX) **EVIDENCE APPENDIX**

None.

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(X)   RELATED PROCEEDINGS APPENDIX

None.

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